

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WENDY GAUTHIER,

Plaintiff,

v.

SUNHEALTH SPECIALTY SERVICES,
INC. and SUNBRIDGE HEALTHCARE
CORPORATION,

Defendants.

Civil Action No.: 4:05-cv-40119

**DEFENDANTS' MOTION IN LIMINE TO PRECLUDE TESTIMONY IN THE
NATURE OF EXPERT OPINIONS BY LAY WITNESSES**

The Plaintiff has not disclosed an expert witness in this matter. The lay witnesses identified by the Plaintiff are not competent to opine on the nature of the Plaintiff's pregnancy or to interpret her medical records. The Plaintiff should therefore be limited to descriptions of physical symptoms.

Rule 701 of the Federal Rule of Evidence was amended in 2000 to further restrict opinion testimony by lay witnesses. Rule 701 now reads:

If the witness is not testifying as an expert, the witness testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and ***(c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.***"

Fed.R.Evid. 701 (emphasis added). Interpretations of the Plaintiff's medical records or opinions concerning the nature of her pregnancy other than descriptions of her physical symptoms would constitute opinion testimony prohibited by Rule 701(c).

Wherefore, the Plaintiff should be precluded from offering testimony that seeks to characterize her pregnancy as medically different from a “normal” pregnancy.

Dated: August 27, 2008

Respectfully Submitted,

**SunHealth Specialty Services, Inc., and
SunBridge Healthcare Corporation,**

by its attorney,

/s/ Michael Williams

K. Scott Griggs (BBO# 555988)

Michael Williams (BBO# 634062)

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CERTIFICATE OF SERVICE

I hereby certify that this Document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on August 27, 2008.

/s/ Michael Williams